IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 16524 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SHREE JAY AMBE OIL CENTRE - Petitioner(s)
Versus
THE STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR HR PRAJAPATI for Petitioner(s) : 1,
MR NEERAJ SONI A.G.P. for Respondent(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 29/06/2007

ORAL JUDGMENT

1. **RULE**. Mr. Soni learned A.G.P., waives service of rule on behalf of the respondents. At the request of the learned advocates for the parties, the matter is taken up for final hearing today itself.

2. In this petition the petitioner has sought limited relief i.e., to stay the impugned order till the revision application, which is pending for final disposal before respondent no. 2, is heard and decided. The petitioner's case is that retail kerosene licence was granted in its favour but it was subsequently cancelled by order dated 5th July, 2006 by respondent no. 3, without following principles of natural justice and also the mandatory provisions of Essential Commodities Act. Against the said order, the petitioner preferred an appeal which was rejected by respondent no. 2 by order dated 28th December, 2006. Being aggrieved by the said order, the petitioner has approached respondent no. 1 by filing revision application on 11th January, 2007, which is pending for final disposal. Along with the revision application, the petitioner also submitted an application for grant of stay of the impugned order. However, the same has been rejected by order dated 2nd/5th June, 2007. Against the said order, the petitioner has approached this Court by filing this petition.

3. I have heard Mr. H.R. Prajapati learned advocate for the petitioner and Mr. Neeraj Soni learned A.G.P., for the respondents. I have also perused the record of

this petition. Annexure-E to the petition, which is a communication addressed to the partner of the petitioner by Section Officer of Food and Civil Supplies Department, Government of Gujarat dated 10th April, 2007, whereby he has been intimated that the revision application filed by the petitioner has been admitted and the date of hearing of the application for stay of the impugned order will be intimated to the petitioner later. The hearing was fixed on 2nd June, 2007. The learned advocate for the petitioner appeared and prayed for grant of stay. However, the said application has been rejected by respondent no. 1 on the ground that there is no sufficient ground for staying the impugned order passed by respondent no. 2. It is the submission of Mr. Prajapati that this Court in number of cases held that when such proceedings are entertained by the concerned authority, ordinarily stay of the impugned order be granted. In the instant case, no ground has been given by respondent no. 1 for rejection of the application. Mr. Soni learned A.G.P., has however, supported the order.

3.1. This Court more than often has laid down that when the State Authorities which are empowered to adjudicate upon such disputes, entertain either appeal or revision application, in normal circumstances, stay has to be granted till the disposal of the proceedings. In

the impugned order no special reasons have been assigned by respondent no. 1 to reject the application of stay. In view of the same, order rejecting application for stay dated 2nd/5th June, 2007 at Annexure-F is quashed and set aside. Order cancelling the licence of the petitioner is stayed till disposal of the revision application. Respondent no. 1 is directed to hear and dispose of the revision application after affording opportunity of hearing to the petitioner, on or before 31st August, 2007.

4. The petition is, therefore, allowed. Rule made absolute with no order as to costs.

[Akshay H. Mehta, J.]

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